

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**ALLIANCE HEALTH GROUP, LLC**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 1:06CV1267LG-JMR**

**BRIDGING HEALTH OPTIONS, LLC  
and DONALD J. BOOTH, M.D.**

**DEFENDANTS**

**AND COUNTER-CLAIMS/ THIRD PARTY CLAIMS**

**BRIDGING HEALTH OPTIONS, LLC  
and DONALD J. BOOTH, M.D.**

**DEFENDANTS/  
COUNTER PLAINTIFFS**

**VS.**

**ALLIANCE HEALTH GROUP, LLC,  
DR. DAVID FALLANG AND LYNN FALLANG  
AND JOHN DOE DEFENDANTS**

**COUNTER DEFENDANTS**

**MOTION TO STAY FORMAL DISCOVERY FILED BY  
DEFENDANTS/COUNTER PLAINTIFFS  
BRIDGING HEALTH OPTIONS, LLC AND DONALD J. BOOTH, M.D.**

COME NOW Defendants/Counter Plaintiffs, Bridging Health Options, LLC (hereinafter “BHO”) and Donald J. Booth, M.D. (hereinafter “Dr. Booth”), by and through their attorneys, and file this their Motion to Stay Formal Discovery and in support thereof would show unto the Court the following:

1. Plaintiff, Alliance Health Group, LLC (hereinafter “Alliance”) initiated this matter on December 20, 2006, by filing its Complaint. The allegations of the Complaint center upon an alleged breach of a Development Agreement for the preparation of a software program which was entered into by BHO and Alliance on August 15, 2003.
2. Defendants have previously filed a Motion to Dismiss for Improper Venue seeking enforcement of the forum selection clause contained in the Development Agreement which would

result in this dismissal of this matter from this Court. On June 14, 2007, the District Court entered a Memorandum Opinion and Order denying Defendants' Motion to Dismiss for Improper Venue. However, the Memorandum Opinion and Order issued by the District Court did not certify the Order for interlocutory appeal.

3. Defendants have currently filed a Motion to Amend Memorandum Order Denying Motion to Dismiss for Improper Venue requesting that the District Court certify its Order so that Defendants may petition the Fifth Circuit Court of Appeals for interlocutory appeal. That Motion has been fully briefed and is ripe for determination by the District Court. Should the Motion to Amend Memorandum Order Denying Motion to Dismiss for Improper Venue be granted, Defendants plan to petition the Fifth Circuit for permission to file an interlocutory appeal and to file an interlocutory appeal in this matter.

4. Defendants are currently due to respond to Plaintiff's First Set of Interrogatories and Requests for Production of Documents by July 25, 2007.

5. Defendants submit that appellate resolution of whether the forum selection clause contained in the Development Agreement should be enforced would result in the termination of this litigation in this or any other federal court. Therefore, to require formal discovery to proceed and require both parties to go through the time and expense of conducting discovery in this matter, when these steps would be unnecessary if the Defendants prevail before the Fifth Circuit Court of Appeals, would waste considerable resources and be overly burdensome to all parties. Likewise, to require that formal discovery proceed before the interlocutory appeal issue is resolved would result, respectfully, in a waste of this Court's time and resources.

6. Further, no prejudice would result to any party from staying formal discovery which includes requiring any party to propounding or responding to interrogatories, requests for production of documents, requests for admissions and/or depositions in this matter beyond production of Initial Disclosures until resolution of the interlocutory appeal occurs. As previously indicated, Plaintiff has propounded discovery in this matter; however, this discovery in no way relates to the validity, effectiveness or applicability of the forum selection clause. This supports Defendants' assertion that no discovery is necessary concerning the issues for which appellate review is sought by Defendants.

7. To assist the Court with understanding the importance of the issue raised, attached hereto as Exhibit "A" is Defendants' Motion to Amend Memorandum Order Denying Defendants' Motion to Dismiss, and attached hereto as Exhibit "B" is the Memorandum Brief in Support of Motion to Amend Memorandum Order Denying Defendants' Motion to Dismiss.

8. For the reasons stated herein, and because appellate review of the effect to be given to the forum selection clause would result in a complete dismissal of this matter from the federal court system, Defendants respectfully request a stay of any formal discovery including but not limited to interrogatories, requests for production of documents, requests for admissions and/or depositions in this case beyond production of Initial Disclosures in this case until such time as Defendants' interlocutory appeal process is exhausted. Alternatively, Defendants request an additional thirty days in which to respond to Plaintiff's discovery requests.

**WHEREFORE, PREMISES CONSIDERED,** Defendants/Counter-Plaintiffs, BHO and Dr. Booth, respectfully move this Honorable Court to grant their Motion to Stay Formal Discovery including but not limited to interrogatories, requests for production of documents, requests for admission and/or depositions beyond production of Initial Disclosures until such time as Defendants'

interlocutory appeal process is exhausted. Alternatively, Defendants/Counter-Plaintiffs request an additional thirty days in which to respond to Plaintiff's discovery requests. Defendants/Counter-Plaintiff further pray for any other and further relief they may be entitled to within the premises.

Respectfully submitted,

BRIDGING HEALTH OPTIONS, LLC and  
DONALD J. BOOTH, M.D.

BY: PAGE, MANNINO, PERESICH  
& McDERMOTT, P.L.L.C.

BY: /s/ Stephen G. Peresich  
STEPHEN G. PERESICH, MSB #4114

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**CERTIFICATE OF SERVICE**

I, STEPHEN G. PERESICH, of the law firm of Page, Mannino, Peresich & McDermott, P.L.L.C., do hereby certify that on July 25, 2007, I electronically filed the foregoing Defendants' Motion to Stay Formal Discovery Filed by Bridging Health Options, LLC and Donald J. Booth, M.D. with the Clerk of the Court using the ECF system which sent notification of such filing to the following: Ron A. Yarbrough, at the law offices of Brunini, Grantuam, Grower & Hewes, PLLC, 140 Trustmark Building, 248 East Capitol Street, Jackson, Mississippi, 39201 and by U.S. Mail to David C. Olson, at the law offices of Frost Brown Todd, LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio, 45202-4182.

This, the 25th day of July, 2007.

/s/ Stephen G. Peresich

STEPHEN G. PERESICH, MSB #4114

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